No. _____

In the
Supreme Court of the United States

UVALDO GUZMAN,
Petitioner,

v.

SKINNER C. STURGIS; TOMMY L. WEST,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Respondents are prison officials who deliberately left Petitioner Uvaldo Guzman in a cage approximately three (3) feet by three (3) feet in floor area and seven (7) feet high for nineteen (19) hours, during which Respondents did not provide Petitioner with access to food, water, or a bathroom. Also during that period, Respondents repeatedly taunted Petitioner, with taunts such as "Are you still here?" "You're going to stay in there," "Just don't go nowhere," and "I got you where I want you." Petitioner was left in the cage after meeting with his attorney's investigator. Petitioner brought suit under 42 U.S.C. § 1983 challenging Respondents' conduct as violating the Eighth and Sixth Amendments to the Constitution of the United States, bringing claims for deliberate indifference and retaliation. The Fifth Circuit Court of Appeals for the United States concluded that neither the retaliatory intent nor the causation element of the retaliation cause of action were met, and that the subjective intent element of the claim for deliberate indifference was not met. The questions presented are:

1. When government officials state their intent to continue to violate an individual's constitutional rights while actually violating them, can those statements be taken at face value for purposes of determining the subjective intent of the government official in regard to a claim for deliberate indifference and for purposes of determining the retaliatory intent element of a retaliation claim?

2. Are government officials' taunts of an individual during their violation of the individual's constitutional rights sufficient to support the causation element of a retaliation claim where the taunts are ongoing during the violation?

PARTIES TO THE PROCEEDING

Petitioner is an individual who was a plaintiff-appellant below.

Respondents Skinner C. Sturgis and Tommy L. West were Defendants-Appellees below.

STATEMENT OF RELATED PROCEEDINGS

United States District Court for the Southern District of Texas, Corpus Christi Division:

> *Guzman v. Fuentez*, No. 2:18-CV-432 (March 31, 2022)

United States Court of Appeals for the Fifth Circuit:

> *Guzman v. Sturgis*, No. 22-40276 (March 14, 2023)

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PETITION FOR WRIT OF CERTIORARI

The decision below grants qualified immunity to government actors who deprived Petitioner of his constitutional rights. In this prisoner civil rights action, Petitioner, Uvaldo Guzman, asserts that while in the custody of the Texas Department of Criminal Justice McConnell Unit located in Beeville, Texas (the "McConnell Unit"), Appellees, Skinner C. Sturgis and Tommy L. West, each demonstrated a deliberate indifference to the minimal civilized measure of Petitioner's necessities under the Eighth and Fourteenth Amendments to the United States Constitution and each retaliated against Petitioner for his decision to exercise his Sixth Amendment right to counsel.

On the morning of May 23, 2018, Petitioner met with an investigator at the McConnell Unit. The investigator there was an agent of Petitioner's attorney, who represented Petitioner pursuant to his right to counsel under the Sixth Amendment of the United States Constitution. The investigator's visit to Petitioner related to a then-pending criminal charge wherein Petitioner was alleged to have assaulted a corrections officer at another prison unit.

Respondent Skinner C. Sturgis locked Petitioner inside a "shakedown" cage. Petitioner could not exit the cage of his own accord. The investigator remained outside the cage. Petitioner and the investigator met in that arrangement for approximately thirty (30) to forty-five (45) minutes. Then, the investigator left the room through the open door.

The shakedown cage is approximately seven (7) feet high, and the floor space is an approximate three (3) foot by three (3) foot square. There is no toilet in the shakedown cage.

Petitioner was forced to remain in the shakedown cage for approximately nineteen (19) hours before a corrections officer unlocked the door and allowed him to exit the cage in the morning hours of May 24, 2018.

During the time that Petitioner was locked inside the cage, various corrections officers, including Respondents, walked into the room containing the cages. ROA.773-75.[1] While there, they made taunting comments to Petitioner, such as "Are you still here?" "You're going to stay in there," "Just don't go nowhere," and "I got you where I want you."

During the time that Petitioner was locked inside the cage, neither Respondents nor anyone else offered Petitioner food or water. During the time that Petitioner was locked inside the cage, Petitioner, left with no other option, was forced to urinate and defecate himself on his person in his clothing.

This Court should review the decision below for two reasons.

First, the decision below departs from precedent in that the Respondents' repeated taunts to Petitioner while he was locked in the cage, such as "Are you still here? "You're going to stay in there," "Just don't go nowhere," and "I got you where I want you," show subjective intent of the Respondents in

[1] "ROA" refers to the Clerk's Record below.

regard to deliberate indifference and retaliatory intent sufficient to support Petitioner's cause of action for retaliation.

Second, the decision below does not conform with case law in that government officials' stated intent in the form of taunts to an individual while violating that individual's constitutional rights is sufficient to support the causation element of a retaliation claim.

OPINIONS BELOW

The United States Court of Appeals for the Fifth Circuit's opinion is unreported but available at 2023 WL 2521874 and reproduced at App.1a-6a. The United States District Court for the Southern District of Texas, Corpus Christi Division's opinion is unreported but available at 2022 WL 980359 and reproduced at App. 7a-35a.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit issued its decision on March 14, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

In pertinent part, the Eighth Amendment to the United States Constitution provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

In pertinent part, the Sixth Amendment to the United States Constitution provides: "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence."

STATEMENT OF THE CASE

A. Constitutional Background—Qualified Immunity, Deliberate Indifference, and Retaliation.

When a government official has pleaded the defense of qualified immunity alleging the actions taken were in good faith and within the scope of discretionary authority, the burden is on the plaintiff to establish the official's conduct violated clearly established law. *Michalik v. Hermann*, 422 F.3d 252, 262 (5th Cir. 2005). In determining whether a defendant is entitled to qualified immunity, the court must first consider "whether the plaintiff asserted a violation of a constitutional right at all," and next must determine whether the defendant's actions could reasonably have been thought consistent with that right. *Siegert v. Gilley*, 500 U.S. 226, 230 (1991).

The Eighth Amendment to the United States Constitution prohibits cruel and unusual punishment. U.S. CONST. AMEND VIII. Prison officials are required to provide humane conditions of confinement and ensure that inmates receive adequate food, clothing, shelter, and medical care. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). Conditions that result in "unquestioned and serious deprivations of basic human needs" or "deprive inmates of the minimal civilized measure of life's necessities violate the Eighth Amendment." *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981); *see also Hudson v. McMillan*, 503 U.S. 1, 8-10 (1992). The denial of basic human needs is cruel and unusual because it can result in pain without purpose. *Id.* at 347. An

Eighth Amendment violation occurs when a prison official is deliberately indifferent to an inmate's health and safety. *Farmer*, 511 U.S. at 834. Humiliating punishments can be cruel and unusual. *Hope v. Pelzer*, 536 U.S. 730, 738 (2002). The United States Supreme Court has held that the deprivation of bathroom breaks for a seven-hour period creates a situation of "particular discomfort and humiliation" that implicates the Eighth Amendment. *Id.* The Supreme Court has also acknowledged the humiliation of not being able to change clothes after defecating on one's person. *Id.* at 738 n.8; *see also Caballero v. Lantz*, No. 3:05-cv-140CFD, 2008 WL 638397, at *3 (D. Conn. Mar. 5, 2008) (finding that an inmate being forced to defecate on himself may be sufficiently serious to support an Eighth Amendment violation).

The test for deliberate indifference has both an objective and subjective prong. *Trevino v. Livingston*, No. 3:14-CV-52, 2017 WL 10130889, at *3 (S.D. Tex. Mar. 13, 2017). Under the subjective prong,[2] the plaintiff must show that 1) the defendant was aware of facts from which the inference of an excessive risk to the plaintiff's health or safety could be drawn, and 2) that the defendant actually drew the inference that such potential for harm existed. *Id.* (citing *Farmer*, 511 U.S. at 848-49; *Harris v. Hegmann*, 198 F.3d 153, 159 (5th Cir. 1999)).

In *Taylor v. Riojas*, the United States Supreme Court held that the plaintiff met the required elements for deliberate indifference and defendants

[2] Respondents conceded in the district court that Petitioner has met the objective prong of the test. ROA.248.

could not rely on a qualified immunity defense where the defendant corrections officials placed the plaintiff in a cell covered in feces and without adequate bathroom facilities, and where the defendants made taunting comments to plaintiff that he was "going to have a long weekend," and that they hoped he would "f***ing freeze." 141 S. Ct. 52, 53-54 (2020) (per curiam). Although "an official's failure to alleviate a significant risk that he should have perceived but did not" falls short of constituting deliberate indifference, where no reasonable corrections official could conclude that the conditions that the plaintiff was subjected to were constitutionally permissible the corrections official cannot be shielded by qualified immunity. *Farmer*, 511 U.S. at 838; *Riojas*, 141 S. Ct. at 53.

In a retaliation claim under the Sixth Amendment to the United States Constitution, the element of causation to a retaliation cause of action requires a showing that "but for the retaliatory motive the complained of incident . . . would not have occurred." *Johnson v. Rodriguez*, 110 F.3d 299, 310 (5th Cir. 1997) (quoting *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995)) (alteration in original).

When determining the degree of motivation requisite to constitute retaliatory intent in a claim of retaliation, "[t]he inmate must produce direct evidence of motivation or, the more probable scenario, 'allege a chronology of events from which retaliation may plausibly be inferred.'" *Jones v. Greninger*, 188 F.3d 322, 324 (5th Cir. 1999) (quoting *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995)).

B. Factual Background—Petitioner was left in a small cage for nineteen hours with no food, water, or bathroom, while being taunted by Respondents.

The causes of action asserted by Petitioner in the matter below reflect a series of occurrences that happened over the span of approximately nineteen (19) hours between May 23, 2018 and May 24, 2018. ROA.773; ROA.781.

On the morning of May 23, 2018, Petitioner met with an investigator at the McConnell Unit. ROA.764; ROA.773. The investigator there was an agent of Petitioner's attorney, who represented Petitioner pursuant to his right to counsel under the Sixth Amendment of the United States Constitution. ROA.764. The investigator's visit to Petitioner related to a then-pending criminal charge wherein Petitioner was alleged to have assaulted a corrections officer at another prison unit. ROA.771.

Petitioner and the investigator initially met in a small conference room, where there was a table partitioned in the middle by a Plexiglass wall with a small hole for the parties on each side to speak to each other through. ROA.772.

At sixty-nine (69) years of age, Petitioner struggled to clearly hear the investigator through the small hole in the Plexiglass. ROA.772. Similarly, the investigator had trouble hearing Petitioner. ROA.772. Because of this difficulty in hearing each other, the investigator stepped out of the small conference room and requested a nearby corrections official for a space where he and Petitioner could more clearly hear each other for an effective meeting. ROA.772.

Respondent Skinner C. Sturgis took Petitioner from the small conference room and locked him inside a "shakedown" cage. ROA.772; ROA.774. Petitioner could not exit the cage of his own accord. ROA.773. The investigator remained outside the cage. ROA.767.

Petitioner and the investigator met in that arrangement for approximately thirty (30) to forty-five (45) minutes. ROA.772-73. Then, the investigator left the room through the open door. ROA.773.

The shakedown cage is approximately seven (7) feet high, and the floor space is an approximate three (3) foot by three (3) foot square. ROA.764.

There is no toilet in the shakedown cage. ROA.777.

Sometime after lunchtime, Respondent Sturgis entered the room containing the shakedown cages. ROA.773. Petitioner informed Respondent Sturgis that he would like to return to his cell. ROA.773. Respondent Sturgis stated that he would be right back to take Petitioner to his cell. ROA.773-74.

Later that day, Respondent Tommy L. West entered the room and informed Petitioner that the corrections officers did not know his meeting with the investigator had concluded, and that he would be right back to return Petitioner to his cell. ROA.774.

Petitioner was forced to remain in the shakedown cage for approximately nineteen (19) hours before a corrections officer unlocked the door and allowed him to exit the cage in the morning hours of May 24, 2018. ROA.781.

During the time that Petitioner was locked inside the cage, various corrections officers, including Respondents, walked into the room containing the cages. ROA.773-75. While there, they made taunting comments to Petitioner, such as "Are you still here?" "You're going to stay in there," "Just don't go nowhere," and "I got you where I want you." ROA.774.

During the time that Petitioner was locked inside the cage, neither Respondents nor anyone else offered Petitioner food or water. ROA.776.

During the time that Petitioner was locked inside the cage, Petitioner, left with no other option, was forced to urinate and defecate himself on his person in his clothing. ROA.780-81; ROA.287-288.

C. Procedural Background

On November 29, 2018, Petitioner (who cannot read or write) filed his Original Complaint *pro se*. ROA.797; ROA.801-02; ROA.8-12. The district court had jurisdiction under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343 because this civil rights case was brought pursuant to 42 U.S.C. §§ 1983 and 1988 and the Eighth and Fourteenth Amendments to the United States Constitution.

On February 28, 2019, the district court held an evidentiary hearing pursuant to *Spears v. McCotter* where Petitioner testified in the nature of a defense of a motion for more definite statement. *See* 766 F.2d 179 (5th Cir. 1985), *abrogated in part by Neitzke v. Williams*, 490 U.S. 319 (1989); ROA.35; ROA.762-808.

On April 1, 2019, the magistrate judge issued a Memorandum and Recommendation to Dismiss Case. ROA.37-51.

On March 2, 2020, via Memorandum Order, the district judge adopted in part and declined to adopt in part the Memorandum and Recommendation to Dismiss Case. ROA.88-96. In the Memorandum Order, the district court found sufficient evidence, including retaliatory intent and causation, based on Petitioner's *Spears* testimony to support Petitioner's claims for retaliation and deliberate indifference. ROA.88-96.

On December 21, 2020, the district court appointed the undersigned counsel to represent Petitioner in the district court proceeding. ROA.154-55.

On August 4, 2021, Respondents filed a Motion for Summary Judgment on Petitioner's claims. ROA.227-573.

On August 25, Petitioner filed a Response to Respondents' Motion for Summary Judgment. ROA.666-728.

On March 31, 2022, the district court granted Respondents' Motion for Summary Judgment holding that Respondents' defense of qualified immunity could not be overcome as Petitioner's retaliation cause of action failed due to lack of evidence of retaliatory intent and causation, and his deliberate indifference cause of action failed because the Respondents' testimony reflected a lack of subjective indifference—despite the district court's prior order finding sufficient evidence to support both the retaliation and

deliberate indifference causes of action asserted by Petitioner. ROA.733-57; ROA.88-96; App.35a.

On March 14, 2023, the appellate court affirmed the judgment of the district court. App.1a-6a. The appellate court had jurisdiction under 28 U.S.C. § 1291 because the appeal was a direct appeal from a final decision of the United States District Court for the Southern District of Texas.

REASONS FOR GRANTING THE PETITION

This case presents an opportunity to the Court to create uniformity regarding interpretation of taunts in regard to intent elements in civil rights claims and, specifically, whether taunts by government officials may be taken at face value when directed at individuals whose constitutional rights are being infringed by the government officials. Stated differently, this case presents issues regarding whether government officials may be taken at their word for purposes of establishing intent elements in civil rights actions.

A. The Decision Below Conflicts With This Court's Precedent That Taunts Are Sufficient to Show Subjective Intent in Regard to Deliberate Indifference and Precedent that Taunts Are Sufficient to Show Retaliatory Intent in Regard to a Retaliation Claim.

The test for deliberate indifference has both an objective and subjective prong. *Trevino v. Livingston*, No. 3:14-CV-52, 2017 WL 10130889, at *3 (S.D. Tex.

Mar. 13, 2017). Under the subjective prong,[3] the plaintiff must show that 1) the defendant was aware of facts from which the inference of an excessive risk to the plaintiff's health or safety could be drawn, and 2) that the defendant actually drew the inference that such potential for harm existed. *Id.* (citing *Farmer*, 511 U.S. at 848-49; *Harris v. Hegmann*, 198 F.3d 153, 159 (5th Cir. 1999)).

In *Taylor v. Riojas*, the this Court held that the plaintiff met the required elements for deliberate indifference and defendants could not rely on a qualified immunity defense where the defendant corrections officials placed the plaintiff in a cell covered in feces and without adequate bathroom facilities, and where the defendants made taunting comments to plaintiff that he was "going to have a long weekend," and that they hoped he would "f***ing freeze." 141 S. Ct. 52, 53-54 (2020) (per curiam).

In *Summit v. Cezano, CSO III*, the United States Court of Appeals for the Ninth Circuit held that the plaintiff met the required elements for deliberate indifference and defendants could not rely on a qualified immunity defense where the defendant prison officials withheld meals from the plaintiff and subjected him to taunts, insults and statements of their intent to starve him. No. 98-16861, 1999 WL 730355 (9th Cir. Sept. 16, 1999) (mem. op.). The court held that "a reasonable jury could conclude that prison officials starved Summit with deliberate

[3] Respondents conceded in the district court that Petitioner has met the objective prong of the test. ROA.248.

indifference and that Summit was injured as a result. *Id.* at *1.

Conversely, in *Aguirre v. City of San Antonio*, the United States Court of Appeals for the Fifth Circuit held that the plaintiff-widow did not meet the subjective intent element in her claim for deliberate indifference where, while the decedent was being arrested, he died after becoming unresponsive and a delay before CPR was administered by the arresting officers. 995 F.3d 395, 421 (5th Cir. 2021). The Fifth Circuit held there that, despite the fact that the police officers could be seen smiling and laughing in the dashcam video, the officers' light-hearted attitudes did not arise to a subjective awareness of the risk and a deliberate choice not to take any precautions against the realization of the danger's consequences because their behavior changed and took on a sober aspect as the decedent remained unresponsive. *Id.*

In regard to retaliation claims, when determining the degree of motivation requisite to constitute retaliatory intent, "[t]he inmate must produce direct evidence of motivation or, the more probable scenario, 'allege a chronology of events from which retaliation may plausibly be inferred.'" *Jones v. Greninger*, 188 F.3d 322, 324 (5th Cir. 1999) (quoting *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995)).

Here, Respondents were aware of Petitioner's extended confinement in a seven-by-three-by-three-foot cage without access to food, water, or a toilet. ROA.287-288; ROA.772; ROA.774; ROA.764; ROA.776; ROA.780-81. This demonstrates an awareness of the health risk posed to Petitioner by having no place to relieve himself for approximately

nineteen (19) hours. Respondents returned to the cage intermittently during the Petitioner's confinement and made taunting statements to Petitioner. ROA.771-74; ROA.781. Here, like in *Riojas* and *Summit*, the taunts support an actual inference drawn by Respondents that a potential for harm existed. There is no evidence in the record suggesting that Respondents ever confirmed or made any effort to confirm that Petitioner was released from the cage. To the contrary, Respondents' taunts show that the Respondents intended Petitioner to remain in the cage's harsh conditions as punishment. ROA.774. Unlike in *Aguirre*, Respondents' behavior and affect stayed consistent throughout the duration of the incident. Therefore, the subjective prong of the deliberate indifference test is met because the Respondents were aware of facts from which the inference of an excessive risk to the Petitioner's health or safety could be drawn, and the Respondents actually drew the inference that such potential for harm existed. Thus, the deliberate indifference test is satisfied by the record.

In *Jacobs v. Woodford*, the United States District Court for the Eastern District of California denied the defendants' summary judgment motion on a qualified immunity defense of plaintiff's retaliation claim. No. 1:08-cv-00369-AWI-JWT (PC), 2012 WL 3869858 (E.D. Cal. Sept. 6, 2012) *findings and recommendations adopted* No. 1:08-cv-00369-AWI-JLT (PC) (E.D. Cal. Oct. 9, 2012). In that case, the plaintiff-prisoner had filed a lawsuit against one of the defendant-prison officials. *Id.* at *3. Another defendant-prison official taunted the plaintiff while escorting him from the prison law library while a

third acquiesced to the conduct. *Id.* at *4. The court reasoned that the acquiescence to the taunts was sufficient to infer retaliatory conduct by the third prison official. *Id.*

Here, like in *Jacobs*, Petitioner's confinement in the cage was caused by a retaliatory intent conveyed to him by Respondents and inferred from the situation, as previously concluded by the district court. ROA.96. Specifically, Respondents repeatedly taunted Petitioner over the course of nineteen (19) hours during his confinement in the cage. Therefore, Respondents' taunts conveyed retaliatory intent.

B. The Decision Below Conflicts With Case Law that Taunts Can be Sufficient to Support the Causation Element of a Retaliation Claim Where the Taunts are Directly Related to the Violation.

In retaliation claims brought under the United States Constitution, the element of causation to a retaliation cause of action requires a showing that "but for the retaliatory motive the complained of incident . . . would not have occurred." *Johnson v. Rodriguez*, 110 F.3d 299, 310 (5th Cir. 1997) (quoting *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995)) (alteration in original). Mere conclusory allegations of retaliation cannot support the causation factor. *Woods v. Smith*, 60 F.3d 1161, 1166 (5th Cir. 1995)).

In *Laning v. Doyle*, the United States District Court for the Southern District of Ohio held that a defendant police officer could not be shielded by a qualified immunity defense where the officer's taunts supported the plaintiff's causation element of her retaliation claim. No. 3:14-cv-24, 2015 WL 710427

(S.D. Ohio Feb. 18, 2015). The plaintiff was directed to pull over in a strip mall parking lot for a traffic violation. *Id.* at *1. She did not immediately stop once the officer activated his police lights, but instead kept driving through the parking lot and parked outside of her office. *Id.* After the plaintiff stepped out of her car, the defendant pointed his taser at her. *Id.* She asked him why she was being detained, but he did not respond and instead arrested her, allegedly in retaliation for her question. *Id.* at *1, *14. While on the way to the jail, the plaintiff alleged, the officer taunted her, making comments including, "You think that, just because you're an old lady, that means we have to be nice to you, trust me we don't," and telling her that her husband "was probably glad to get rid of her for a while because she was such a pain in the a**." *Id.* When they arrived at the jail, the officer further taunted her by stating, "I didn't search you *everywhere*, but they will." *Id.* (emphasis in original). The court held that the defendant was not entitled to qualified immunity on the retaliation claim despite the fact that it was unclear whether probable cause even existed to support the arrest. *Id.* at *16. Instead, the court relied on the taunting comments and behavior of the defendant in reaching its ruling. *Id.*

Petitioner's evidence of record shows that his confinement in the cage occurred after meeting with his attorney's investigator (ROA.771), that the Respondents were aware that he was in the cage (ROA.772; ROA.774), and that they taunted him while he was there (ROA.774). Specifically, both Respondents were aware that Petitioner met with his attorney's investigator on the morning he was locked in the cage. ROA.772; ROA.774. Petitioner's

confinement in the cage began because he was meeting with his attorney's investigator and they could not hear each other. ROA.772. Respondent Sturgis locked Petitioner into the cage. ROA.772. When Respondent West entered the room containing the cages sometime later, he told Petitioner, "We didn't know you were done." ROA.774. This shows that Respondent West also knew about Petitioner's meeting with his attorney's investigator. The Respondents were aware that Petitioner's confinement in the cage lasted an extended period because they returned intermittently, offering taunts of "Are you still here? "You're going to stay in there," "Just don't go nowhere," and "I got you where I want you." ROA.774. Respondents' repeated unfulfilled promises that Petitioner would soon be released from the cage (ROA.771-72; ROA.774) also constitute taunts in the context of Respondents' other statements to Petitioner and the undisputed evidence that the Petitioner's confinement in the cage lasted at least twelve (12) hours [and up to nineteen (19) hours]. ROA.773; ROA.781. Here, as in *Laning*, the taunts and behavior of Respondents support the causation element of Petitioner's retaliation claim. The taunting comments and behavior made by Respondents against Petitioner in-and-of themselves show that but for the retaliatory motive, the incident would not have occurred. Respondent's knowledge of Petitioner's meeting with his attorney's investigator combined with Respondents' retaliatory intent exhibited by the subsequent taunts of Appellant during the prolonged confinement in the cage establish the causation element.

CONCLUSION

For the foregoing reasons, this Court should grant the petition.

Respectfully submitted,

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